
In the Matter of the Compensation of
DREW S. LLOYD, Claimant
WCB Case No. 15-03731
ORDER ON REVIEW
Hollander & Lebenbaum et al, Claimant Attorneys
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Lanning and Curey.

Claimant requests review of Administrative Law Judge (ALJ) Sencer's order that upheld the SAIF Corporation's denial of his occupational disease claim for a right wrist sprain/strain condition. On review, the issue is compensability.

We adopt and affirm the ALJ's order with the following supplementation.

The ALJ upheld SAIF's denial of claimant's occupational disease claim for a right wrist sprain/strain condition. In doing so, the ALJ concluded that claimant's work activities were not the major contributing cause of a pathological worsening of his underlying disease or of a combined condition. *See* ORS 656.802(2)(b).

On review, claimant argues that his occupational disease claim was confined to ORS 656.802(2)(a), and did not include consideration of ORS 656.802(2)(b). In support of his position, he refers to the clarification of the issues at hearing, where his counsel described the issue as an occupational disease claim for a right wrist sprain/strain. (Tr. 1-2). Because that description neither limits the disputed occupational disease claim to merely subsection (2)(a) nor excludes subsection (2)(b) from consideration, we disagree with claimant's contention that the ALJ's decision exceeded the scope of issues framed at the hearing. In any event, even if the claimed occupational disease claim was limited to an analysis under ORS 656.802(2)(a), we are not persuaded that the compensability of such a claim has been established. We reason as follows.

To establish a compensable occupational disease, claimant must prove that employment conditions were the major contributing cause of his right wrist sprain/strain condition. ORS 656.266(1); ORS 656.802(2)(a); *Lori M. Lawrence*, 60 Van Natta 727, 728 (2008). The major contributing cause means a cause that contributes more than all other causes combined. *See Smothers v. Gresham Transfer, Inc.*, 332 Or 83, 133-34 (2001).

Determination of the major contributing cause is a complex medical question that must be resolved by expert medical opinion. *Uris v. State Comp. Dep't*, 247 Or 420, 426 (1967); *Jackson County v. Wehren*, 186 Or App 555, 559 (2003). To persuasively establish the major contributing cause of a condition, an opinion must consider the relative contribution of each cause and determine which cause, or combination of causes, contributed more than all other causes combined. *Dietz v. Ramuda*, 130 Or App 397, 401-02 (1994), *rev dismissed*, 321 Or 416 (1995). Where the medical evidence is divided, we give more weight to those medical opinions that are well reasoned and based on complete information. *Somers v. SAIF*, 77 Or App 259, 263 (1986).

Here, Dr. Sohlberg initially opined that “there is clearly a work-related component here that is the majority of the swelling/inflammation and the need for treatment, but to a lesser degree, the preexisting condition has also contributed.” (Ex. 5-3). However, Dr. Sohlberg later opined that “the major contributing cause of the entire condition is a nonwork-related issue.” (Ex. 16A). Moreover, Dr. Sohlberg concurred with Dr. Ireland’s opinion that “the major contributing cause of the right wrist condition is [claimant’s] underlying degenerative wrist condition secondary to his Marfan’s syndrome.” (Exs. 15-9, 18).

Thus, to the extent that Dr. Sohlberg’s opinion could be read to support a finding that claimant’s work activities are the major contributing cause of his right wrist condition, we find it unpersuasive because it is not well-reasoned/explained and internally inconsistent and his final opinion on compensability supports SAIF’s denial. *See Howard L. Allen*, 60 Van Natta 1423, 1424-25 (2008) (internally inconsistent medical opinion, without explanation for the inconsistencies, was unpersuasive); *see also Kenneth L. Edwards*, 58 Van Natta 487, 488 (2006) (physician’s opinion not persuasive where there was no reasonable explanation in the record for changed opinion). Under such circumstances, the medical record does not persuasively establish that claimant’s work activities were the major contributing cause of his claimed right wrist condition.

Accordingly, based on the aforementioned reasoning, as well as that expressed in the ALJ’s order, we conclude that the claimed occupational disease is not compensable.¹ Thus, we affirm.

¹ In addition to challenging the scope of issues presented to the ALJ, claimant contends that ORS 656.802(2)(b) is not applicable because SAIF has not established that his occupational disease claim is based on the worsening of a preexisting condition. As previously noted, even if this claim was limited to an analysis under ORS 656.802(2)(a), the record does not persuasively establish its compensability. Consequently, it is unnecessary to address claimant’s contention.

ORDER

The ALJ's order dated November 24, 2015 is affirmed.

Entered at Salem, Oregon on May 31, 2016
